

Remarks

Claims 38-61 and 65-74 are pending upon entry of the foregoing amendments.

Amendments

Claims 1-37, 62-64, and 75-76 have been canceled without prejudice as being drawn to a non-elected invention.

Claim 38 has been amended to specify that the food grade acid composition comprises about 40 to 100 weight percent food grade acid, 0 to about 5 weight percent surface tension reducing agent, 0 to about 30 weight percent plasticizer, 0 to about 20 weight percent bulk agent, and 0 to about 30 weight percent water. Support for this amendment is found throughout the specification, including original claim 62.

Claims 39, 40, 43, and 44 have been amended for clarity and consistency. Claim 59 has been amended to depend from claim 38, correcting an obvious typographical error. No new matter has been added.

Rejection Under 35 U.S.C. § 102

Claims 38, 39, 41, 45, 47, and 65-67 were rejected under 35 U.S.C. § 102(b) as anticipated by Australian Patent No. AU-B-32375/97 to Jabara et al. (hereinafter "Jabara"). The rejection is respectfully traversed.

Applicants' claim 38 as amended specifies that the food grade acid composition comprises about 40 to 100 weight percent food grade acid, 0 to about 5 weight percent surface tension reducing agent, 0 to about 30 weight percent plasticizer, 0 to about 20 weight percent bulk agent, and 0 to about 30 weight percent water. The high fraction of food grade acid in the composition is able self-adhere to the straw, avoiding the need for a binder or adhesive agent. See Page 8, Lines 12-14, of the original specification.

As the Examiner appears to already appreciate (by the indication in the Office Action that original claim 62, the matter of which is now incorporated into claim 38) the claims as amended require features not taught in Jabara. For instance, Jabara fails to disclose the particular food grade acid compositions defined by Applicants' claims, which have about 40 to 100 weight percent food grade acid. Accordingly, Applicants' claims as amended are all novel over Jabara.

Rejections Under 35 U.S.C. § 103

Claims 38-45 and 65-67 were rejected under 35 U.S.C. § 103(a) as obvious over Jabara. Claims 38-62 and 65-74 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 3,824,322 to Fiorella (hereinafter "Fiorella"). The rejections are respectfully traversed.

Jabara

Nothing in Jabara remotely teaches or suggests a coated article for imparting flavor wherein a food grade acid composition that includes about 40 to 100 weight percent food grade acid, 0 to about 5 weight percent surface tension reducing agent, 0 to about 30 weight percent plasticizer, 0 to about 20 weight percent bulk agent, and 0 to about 30 weight percent water is coated and immobilized onto a surface of a drinking straw.

Fiorella

Fiorella discloses a flavored *drink stirrer* for alcoholic beverages, but *teaches away* from flavor coated *drinking straws*. Fiorella teaches that although flavors have been incorporated in drinking straws, they do not provide desirable properties such as maintaining the flavoring agent in a convenient position, protecting it before use, and allowing easy measured dispensing of the flavoring by the consumer. (Col. 1, Lines 56-69). For instance, Fiorella teaches that un-crimped

and un-perforated hollow cylindrical tubes functionally do not hold flavoring means well. (Col. 3, Lines 17-22). Fiorella teaches that these properties are distinctive of flavored stirrers, therefore teaching away from flavoring by means of a drinking straw. In contrast, Applicants teach that the “coating composition comprises a *high concentration of one or more food grade acids* and *advantageously can self-adhere* to the surface of the drinking straw absent an adhesive agent. Accordingly, the claimed composition clearly provides a benefit not taught by Fiorella; the claimed food acid composition is clearly more than merely “adjusting the acid content of the straw according to the extent of sourness desired” as the Examiner contends. Absent improper hindsight reconstruction based on the instant application, Fiorella plainly would not have motivated one of ordinary skill in the art at the time of Applicants’ invention to derive the presently claimed food acid composition coated drinking straw.

Moreover, nothing in Fiorella remotely suggests a coating composition that comprises 40 to 100 weight percent food grade acid, 0 to 5 weight percent surface tension reducing agent, 0 to 30 weight percent plasticizer, 0 to 20 weight percent bulk agent, and 0 to 30 weight percent water. The example composition in Fiorella is mostly corn syrup solids and water: 0.5 to 10% citric acid, 10 to 70% corn syrup solids, 0.1 to 10% vegetable gum, with the balance usually water. (Col. 6, Lines 39-49). Thus, the Fiorella composition is starkly different from Applicants’ claimed composition.

It is also noted that in the Office Action mailed April 13, 2006, the Examiner maintains that “spoons or plastic structures” are patentably distinct from “coated drinking straws” “because each of the distinct species has a different classification and a different utility and require separate consideration.” (Page 4, Lines 1-5). It would appear to follow that the flavored drink

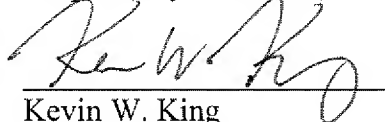
stirrer for alcoholic beverages is patentably distinct from and could not render obvious the presently claimed coated drinking straw.

Conclusion

The claims as amended are novel and non-obvious over the prior art of record. Prompt allowance of each claim therefore is respectfully solicited.

The undersigned respectfully invites the Examiner to contact him by telephone (404.853.8068) if any outstanding issues can be resolved by conference or examiner's amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin W. King", is written over a horizontal line.

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